

Appendix A

630.605. Placement programs to be maintained. The department shall establish a placement program for persons affected by a mental disorder, mental illness, mental retardation, developmental disability or alcohol or drug abuse. The department may utilize residential facilities, day programs and specialized services which are designed to maintain a person who is accepted in the placement program in the least restrictive environment in accordance with the person's individualized treatment, habilitation or rehabilitation plan. The department shall license, certify and fund, subject to appropriations, a continuum of facilities, programs and services short of admission to a department facility to accomplish this purpose.
(L. 1980 H.B. 1724)

630.610. Applications for placement--criteria to be considered. 1. If the head of a facility operated by the department determines that placement out of the facility would be appropriate for any patient or resident, the head of the facility shall refer the patient or resident for placement according to the department's rules. If a patient or resident is accepted and placed under this chapter, then the patient or resident shall be considered as discharged as a patient or resident of the facility and reclassified as a client of the department.

2. Any person, his authorized representative, his parent, if the person is a minor, his guardian, a court of competent jurisdiction or a state or private facility or agency having custody of the person may apply for placement of the person under this chapter.

3. If the department finds the application to be appropriate after review, it shall provide for or arrange for a comprehensive evaluation, and the preparation of an individualized treatment, habilitation or rehabilitation plan of the person seeking to be placed, whether from a department facility or directly, to determine if he meets the following criteria:

(1) The person is affected by a mental disorder, mental illness, mental retardation, developmental disability or alcohol or drug abuse; and

(2) The person is in need of special care, treatment, habilitation or rehabilitation services as described in this chapter, including room or board, or both; provided, however, that no person shall be accepted for placement if the sole reason for the application or referral is that residential placement is necessary for a school-aged child, as defined in chapter 162, RSMo, to receive an appropriate special education.
(L. 1980 H.B. 1724)

630.615. Program standards to be considered--prior to placement. Before placing any client in a particular residential facility or day program, the department shall consider each of the following criteria:

(1) The best interests of the patient or resident;

(2) Except as provided in subdivision (5) of this section, the least restrictive environment for providing care and treatment consistent with the needs and conditions of the patient or resident;

(3) The ability to provide to the patient or resident that individual degree of care and treatment which is required for that patient or resident and which is of comparable quality to the existing care and treatment based upon investigation of the alternative place and its program of care and treatment;

(4) The relationship of the patient or resident to his family, guardian or friends, so as to maintain relationships and encourage visits beneficial to the patient or resident;

(5) Whether the facility will provide the security necessary to protect the public safety and any crime victim or other witnesses if the client was committed to the department of mental health pursuant to chapter 552, RSMo, based on an accepted plea of not guilty by reason of a mental disease or defect excluding responsibility or an acquittal on that basis as provided in section 552.030, RSMo, for a dangerous felony as defined in section 556.061, RSMo, or a violation of section 565.020 or 566.040, RSMo, or an attempt to commit one of the preceding crimes.
(L. 1980 H.B. 1724, A.L. 1996 S.B. 884 & 841)

630.620. Facilities and programs to be utilized in making placements. 1. Except as provided in subsection 2 of this section, the department may place any patient or resident referred by a department facility or any person applying directly or referred under section 630.610 who is accepted for placement, in one or more of the following facilities or programs as soon as practicable after consultation with the person, patient or resident, if competent, or his parents, if he is a minor, or his guardian:

(1) A facility licensed by the department of social services under chapter 198, RSMo, and licensed or certified, or both, by the department under this chapter;

(2) A facility or program licensed or certified, or both, by the department;

(3) The home of the client.

2. If the person was committed to the department of mental health pursuant to chapter 552, RSMo, based on an accepted plea of not guilty by reason of a mental disease or defect excluding responsibility or an acquittal on that basis as provided in section 552.030, RSMo, for a dangerous

felony as defined in section 556.061, RSMo, or a violation of section 565.020 or 566.040, RSMo, or an attempt to commit one of the preceding crimes, the placement shall be to a secure facility as defined in section 552.040, RSMo, unless a court order is entered allowing placement in a nonsecure facility.

3. The department shall provide a written statement to the client, the client's parent, if the client is a minor, the client's legal guardian, the referring court or the referring state or private agency or facility, and to the client's next of kin specifying reasons why a proposed placement is appropriate pursuant to section 630.615. If the client was originally committed pursuant to chapter 552, RSMo, the written statement shall also be provided to the prosecuting attorney in the jurisdiction where the person was tried and acquitted.
(L. 1980 H.B. 1724, A.L. 1996 S.B. 884 & 841)

630.625. Consent required for placement.

If the client is competent to give informed consent, the department shall allow ten days to obtain his consent before making a placement. If the client is a minor or has a legal guardian, the department shall obtain the consent of the parent or guardian before placement. If the client is an involuntary patient or resident under chapter 211, 552 or 632, RSMo, the department shall notify the court of competent jurisdiction of the proposed placement and allow ten days for the court to object.
(L. 1980 H.B. 1724)

630.630. Alternative proposals to be prepared. If a patient or resident, parent, if the patient or resident is a minor, or legal guardian does not consent to transfer of the patient or resident from a facility operated by the department, then the department shall propose other appropriate placement alternatives, if available, and seek to obtain consent under section 630.625 until the alternatives are exhausted.
(L. 1980 H.B. 1724)

630.635. Procedure when consent not given--review panel to be named--notice and hearing required--appeal--emergency transfers may be made. 1. If a resident in a mental retardation facility, or his parent if he is a minor, or his legal guardian refuses to consent to the proposed placement, the head of the mental retardation facility may petition, under the procedures in section 633.135, RSMo, the director of the division of mental retardation and developmental disabilities to determine whether the proposed placement is appropriate under chapter 633, RSMo.

2. If a patient in a mental health facility, or his parent if he is a minor, or his legal

guardian refuses to consent to the proposed placement, the head of the mental health facility may petition the director of the division of comprehensive psychiatric services to determine whether the proposed placement is appropriate under sections 630.610, 630.615 and 630.620.

3. The director of the division of comprehensive psychiatric services shall refer the petition to the chairman of the state advisory council for his division who shall appoint and convene a review panel composed of three members. At least one member of the panel shall be a family member or guardian of a patient who resides in a mental health facility operated by the department. The remaining members of the panel shall be persons who are from nongovernmental organizations or groups concerned with the prevention of mental disorders, evaluation, care, treatment or rehabilitation of persons affected by the same conditions as the patient the department seeks to place and who are familiar with services and service needs of persons in mental health facilities operated by the department. No member of the panel shall be an officer or employee of the department.

4. After prompt notice and hearing, the panel shall determine whether the proposed placement is appropriate under sections 630.610, 630.615 and 630.620. The hearing shall be electronically recorded for purposes of obtaining a transcript. The council shall forward the tape recording, recommended findings of fact, conclusions of law, and decision to the director who shall enter findings of fact, conclusions of law, and the final decision. Notice of the director's decision shall be sent to the patient, or his parent if he is a minor, or his guardian by registered mail, return receipt requested. The director shall expedite this review in all respects.

5. If the patient, or his parent if he is a minor, or his guardian disagrees with the decision of the director, he may appeal the decision, within thirty days after notice of the decision is sent, to the circuit court of the county where the patient or resident, or his parent if he is a minor, or his guardian resides. The court shall review the record, proceedings and decision of the director not only under the provisions of chapter 536, RSMo, but also as to whether or not the head of the facility or the department sustained its burden of proof that the proposed placement is appropriate under sections 630.110, 630.115 and 630.120. The court shall expedite this review in all respects. Notwithstanding the provisions of section 536.140, RSMo, a court may, for good cause shown, hear and consider additional competent and material evidence.

6. The notice and procedure for the hearing by the panel shall be in accordance with chapter 536, RSMo.

7. In all proceedings either before the panel or before the circuit court, the burden of proof shall be upon the head of the facility to demonstrate by a preponderance of evidence that the proposed placement is appropriate under the criteria set forth in sections 630.610, 630.615 and 630.120.

8. Pending the convening of the hearing panel and the final decision of the director or the court if the director's decision is appealed, the department shall not place or discharge the patient from a facility except that the department may temporarily transfer such patient in the case of a medical emergency.

9. There shall be no retaliation against any state employee as the result of a good faith decision to place the patient which is appealed and who testifies during a hearing or otherwise provides information or evidence in regard to a proposed placement. (L. 1980 H.B. 1724)

630.640. Costs of benefits may be paid by department--recovery. 1. If a client receiving services under this chapter is ineligible for public assistance benefits from any source, or such benefits are inadequate to meet the costs of such services, his monthly costs may be paid or supplemented out of funds appropriated for that purpose to the department.

2. If payments for the support and maintenance of the client are made from funds appropriated to the department, the department shall charge the client or those responsible for his support under this chapter for his support and maintenance pursuant to sections 630.205 to 630.215. (L. 1980 H.B. 1724)

630.645. Follow-up care. The department shall provide or shall arrange for follow-up care and aftercare and shall make or arrange for reviews and visits with the client at least quarterly to the residential facility or day program in which the client has been placed to determine whether the client is receiving care, treatment, habilitation and rehabilitation, including medical care, consistent with his needs and condition. The department shall identify the facilities, programs or specialized services operated or funded by the department which shall provide necessary levels of follow-up care, aftercare, habilitation or medical treatment to clients in certain geographic areas where they are placed. After a client has been placed through the placement program, the department shall, for a period of four months following the initial placement, evaluate and review the progress of the client in the placement at least once a month. (L. 1980 H.B. 1724)

630.650. Cooperation with department of social services. The department of social services shall cooperate with the department of mental health and its facilities in locating

licensed residential facilities, day programs and specialized services, in visiting and inspecting them, and in submitting inspection and other reports regarding them and the department clients placed therein. (L. 1980 H.B. 1724)

630.655. Rules for standards for placement facilities and programs--required standards. 1. The department shall promulgate rules which set forth reasonable standards for residential facilities, day programs or specialized services such that each program's level of service, treatment, habilitation or rehabilitation may be certified and funded accordingly by the department for its placement program clients or as necessary for the facilities or programs, to meet conditions of third-party reimbursement.

2. The rules shall provide for the facilities, programs or services to be reasonably classified as to resident or client population, size, type of services or other classification.

3. The standards contained in the rules shall particularly provide for the following:

- (1) The admission and commitment criteria, which shall be based upon diagnoses;
- (2) The care, treatment, habilitation or rehabilitation;
- (3) The general medical and health care;
- (4) Adequate physical plant facilities, including fire safety, housekeeping and maintenance standards;
- (5) Food service facilities;
- (6) Safety precautions;
- (7) Drugs and medications;
- (8) A uniform system of record keeping;
- (9) Resident or client rights and grievance procedures;

(10) Adequate staff.

4. The department shall certify the facilities, programs or services which meet the standards without the requirement of a fee. (L. 1980 H.B. 1724)

630.656. Waiver or exception request of administrative rule or standard, procedure. Notwithstanding any rule to the contrary, any request for a waiver or exception of administrative rule or standard shall be approved by an exceptions committee created by the filing agency and such committee shall be considered a public governmental body operating under chapter 610, RSMo. (L. 1995 S.B. 374 § 630.655)

630.660. Written contracts required. The department shall require residential facilities, day programs and specialized services to enter into written contracts to receive funding for services rendered to clients placed by the department. (L. 1980 H.B. 1724)